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Competition Policy Division
Wireline Competition Bureau

November 6, 2018
Via ECFS Filing

Ms. Marlene H. Dortch, FCC Secretary
Federal Communications Commission
9050 Junction Drive
Annapolis Junction, MD 20701

For sixty (60) days

~~DOCKET FILE COPY ORIGINAL~~

RE: Endstream Communications, LLC, Request for Special Temporary Authority; WC Docket Nos. 18-321 and 18-322

Dear Ms. Dortch:

Pursuant to Section 214 of the Communications Act of 1934, as amended (the "Act"), Endstream Communications, LLC ("Endstream" or "Company") respectfully requests Special Temporary Authority ("STA") to allow it to continue providing services pending consideration and final Commission approval of Endstream's Joint Domestic and International Transfer of Control Application ("Joint Application"), which was filed on October 11, 2018. As explained more fully below, that Joint Application was filed to remedy a recently-discovered regulatory lapse, namely, the failure to seek prior approval for a December 31, 2011 transaction that resulted in a transfer of control of Endstream.

Endstream, a New York limited liability company, was founded in 2007 by Mr. Erik Levitt and Mr. Dov Schwartz, each of whom owned an equal 50% of the Company. Both Mr. Levitt and Mr. Schwartz are U.S. Citizens. Endstream operates as a wholesale provider of interstate long distance telecommunications services that are purchased by other carriers to provide interconnected VoIP, toll free, calling card and other communications services throughout the U.S. It also provides retail interconnected VoIP service to a single customer in Massachusetts. Mr. Levitt serves as CEO and, from Endstream's inception, has managed the day-to-day operations of Endstream. Mr. Schwartz was primarily an investor, who did not participate substantially in running the Company.

On December 31, 2011, Mr. Schwartz, who at the time owned 50% of the Endstream stock, left the partnership. His share of the Company was distributed among Mr. Levitt and two new investors, resulting in the following ownership of Endstream:

Erik Levitt, 41% (U.S. Citizen)
Dan Pulver: 41% (U.S. Citizen)
Avinash Kenkare: 18% (U.S. Citizen)

Subsequently, October 8, 2016, Brian Stone acquired 8% of the Company's stock, which resulted in the following ownership shares, which exists today:

Erik Levitt, 37.5%
Dan Pulver: 37.5%
Avinash Kenkare: 17%
Brian Stone: 8% (U.S. Citizen)

Because Mr. Levitt had exercised *de facto* control of Endstream since its inception, he did not view the transaction that occurred in 2011 as having conferred on him any greater control of the Company than he had already continuously exercised for the preceding four years. It never occurred to him at that time or subsequently that FCC approval might be required. The subsequent transfer of 8% of the stock to Mr. Stone that occurred on October 8, 2016 did not involve a transfer of control that would have required approval.

On September 11, 2018, Endstream entered into a stock purchase agreement with Hammer Fiber Optic Holdings Corp, whereby Hammer will purchase 100% of the stock of Endstream. In the process of preparing a Section 214 Transfer of Control Application for this transaction, Endstream's regulatory consultant questioned whether Mr. Schwartz remained an owner of Endstream and, when they determined that he did not, advised Mr. Levitt that a Transfer of Control Application should have been filed for that transaction.

Accordingly, Endstream filed a Joint Application for Transfer of Control on October 11, 2018. While the Joint Application remains pending, Endstream requests a grant of STA to allow it to continue serving its customers under its current ownership and without interruption. Grant of the instant STA will serve the public interest, convenience, and necessity because it will permit Endstream to continue to provide service to its wholesale customers who rely on Endstream for telecommunications services that they use as inputs to the interconnected VoIP and other services they sell to end users. Allowing Endstream to continue providing its regulated services also would ensure the existence of a competitive provider in the marketplace.

Endstream is taking steps to avoid regulatory compliance failures in the future. They have conferred with their regulatory consultant and been briefed on the types of transactions that require FCC notification and/or approval. Inteserra will be consulted in the future regarding any significant changes in company equity ownership and/or voting control.

The parties acknowledge that a grant of this STA will not prejudice any action the Commission may take on the underlying application seeking Commission consent to the transfer of control. The parties further acknowledge that this STA can be revoked by the Commission upon its own motion without a hearing.

Endstream respectfully requests that the Commission grant this request for STA to allow it to continue to provide service under its current ownership, pending approval of its Joint Domestic and International Transfer of Control Application.